In the Supreme Court of the United States

OCTOBER TERM, 1925.

THE INTERSTATE COMMERCE COMMISSION, appellant,
v.
DAVID G. BAIRD ET AL., APPELLEES. } No. 409.

MOTION TO ADVANCE.

In the Supreme Court of the United States.

OCTOBER TERM, 1903.

THE INTERSTATE COMMERCE COMMISSION, appellant,
v.
DAVID G. BAIRD, FRED. F. CHAMBERS, George O. Waterman, G. A. Richardson, E. B. Sturges, George F. Baer, Orlando C. Post, Eben B. Thomas, William H. Truesdale, W. G. Brown, appellees. } No. 409.

MOTION TO ADVANCE.

The Solicitor-General, at the request and on behalf of the Interstate Commerce Commission, appellant in the above-entitled cause, respectfully moves the court to advance the same on the docket for hearing during the present term on the following grounds:

1. The case is a proceeding under section 12 of the act of Congress approved February 4, 1887, entitled "An act to regulate commerce," as amended March 2, 1889, and February 10, 1891, and under section 3 of the act of Congress approved February 19, 1903, entitled "An act to further regulate

commerce with foreign nations and among the States," for the enforcement of orders of appellant, the Interstate Commerce Commission, against the appellees, requiring the appellees, recalcitrant witnesses, to produce contracts and to answer questions deemed by the appellant to be material and necessary to the determination of issues in a pending cause before the appellant, and deemed by the appellant to be necessary to enable it to perform its functions and to inform appellant as to the manner and method in which the business of common carriers is conducted, and to enable appellant to obtain the full and complete information necessary to enable appellant to perform the duties and carry out the objects for which it was created.

2. The case is one prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission and is a case to which, pursuant to section 3 of said act of February 19, 1903, the provisions of an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February 4, 1887, and all other acts having a like purpose, apply. One object of said act of February 19, 1903, is the expedition of proceedings instituted by the Interstate Commerce Commission on the ground of the public interests affected.

3. The cause pending before the appellant, the Interstate Commerce Commission, wherein the appellees have refused to produce contracts and answer questions, required as aforesaid, is one of unusual and general interest and importance in that—

(*a*) Said cause involves the reasonableness and justice of freight rates on anthracite coal maintained by all railroads connecting the anthracite coal regions, in the State of Pennsylvania, with tide-water points;

(*b*) Said cause also involves the question whether the said railroads connecting the anthracite coal fields of Pennsylvania with tide-water points practice discrimination against independent producers and shippers of anthracite coal, resulting in the enhancement of the price of anthracite coal, a necessary of life in general use throughout the eastern States;

(*c*) Said cause is awaiting final submission and argument before the appellant, the Interstate Commerce Commission, and it is claimed by the respondents therein that the decision of the issues therein must be governed by the correctness of the ruling at circuit, which is the basis of the order herein appealed from.

4. The case is of unusual and general importance irrespective of the issues involved in said cause pending before the appellant, the Interstate Commerce Commission, in that the refusal of the appellees to produce contracts and answer questions

in said cause challenges the right and power of the Interstate Commerce Commission, which is a bureau or department of the Government, to compel the production of evidence by it deemed to be relevant in determining the reasonableness and justice of freight rates, and deemed by it to be necessary in order to enable it to obtain the information required for the proper performance of its duties and for the carrying out of the provisions of law under which it was created and by which it is governed.

HENRY M. HOYT,
Solicitor-General.

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